

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NICK PEARSON, FRANCISCO PADILLA,
CECILIA LINARES, AUGUSTINA BLANCO,
ABEL GONZALEZ, and RICHARD
JENNINGS, on Behalf of Themselves and All
Others Similarly Situated,

Plaintiffs,

v.

NBTY, INC., a Delaware corporation; and
REXALL SUNDOWN, INC., a Florida
corporation; TARGET CORPORATION, a
Minnesota Corporation,

Defendants.

Case No.: 11 CV 07972

CLASS ACTION

Judge James B. Zagel

**Motion for Leave To File Joint Response to
Objections and Exhibits Thereto Under Seal**

Plaintiffs Nick Pearson, Francisco Padilla, Cecilia Linares, Augustina Blanco, Abel Gonzalez, and Richard Jennings (“Plaintiffs”), through their counsel; and Defendants NBTY, Inc.; Rexall Sundown, Inc.; and Target Corporation (collectively, “Defendants”) (collectively with Plaintiffs, the “Parties”), by and through their counsel, hereby move for leave to file under seal their Joint Response to Objections and Exhibits Thereto. In support hereof, the Parties state as follows:

1. The Parties have redacted portions of the Joint Response to Objections and portions of Exhibits B, J, S, and Z thereto to preserve the confidentiality of sales data and marketing information that belongs to Defendants and/or their business associates. This information is, in some cases, subject to a confidentiality agreement with a third party and, in all

cases, information that, if disclosed publicly, would detrimentally affect Defendants' competitive position in the market.

2. To the extent that these documents were previously produced in litigation, they were produced pursuant to protective orders entered in the relevant cases. *See Cardenas v. NBTY, Inc.*, No. 2:11-cv-01615-TLN-CKD, Stipulation and Protective Order [D.E. 58] (E.D. Cal. Aug. 17, 2012); *Jennings v. Rexall Sundown, Inc.*, No. 1:11-cv-11488-WGY, Joint Confidentiality Stipulation and Protective Order [D.E. 37] (D. Mass. June 1, 2012).

3. The Parties have arranged for courtesy copies of both the public-record (redacted) and the sealed (unredacted) versions of their Joint Response to Objections and Exhibits A through Z thereto to be provided to the Court immediately.

4. The Parties will electronically file public-record (redacted) versions of their Joint Response to Objections and Exhibits A through Z thereto, and will serve the same on the Objectors or their Counsel listed in the service list attached hereto.

5. The Parties will serve unredacted versions of their Joint Response to Objections and Exhibits B, J, S, and Z thereto on the Objectors or their counsel listed in the service list attached hereto, provided that the Objectors or their counsel comply with the Protective Order entered in a related case, *Cardenas v. NBTY, Inc.*, No. 2:11-cv-01615-TLN-CKD (E.D. Cal.), which requires persons to execute a Confidentiality Undertaking before reviewing any confidential materials subject to that Order. A copy of the *Cardenas* Stipulation and Protective Order and the Confidentiality Undertaking will be enclosed with the public-record (redacted) version of the Parties' Joint Response to Objections served upon the Objectors or their counsel.

6. Wherefore, pursuant to Local Rule 26.2, the Parties respectfully request an order sealing the unredacted version of their Joint Response to Objections and Exhibits B, J, S, and Z

thereto. In the event this Motion is granted, the Parties will electronically file sealed versions of their Joint Response to Objections and Exhibits B, J, S, and Z thereto.

Dated: September 4, 2013

By: /s/Kara L. McCall

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CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2013, a true and correct copy of the following document was electronically filed and served on all counsel of record in this action who are deemed to have consented to electronic service via the Court's CM/ECF system: **Parties' Motion for Leave To File Joint Response to Objections and Exhibits Thereto Under Seal.**

I also certify that the foregoing document is being served by U.S. Mail this day on all counsel of record or *pro se* parties identified below who are not authorized to receive electronically Notices of Electronic Filing.

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